

REMARKS

Applicants enclose herewith an Evidentiary Declaration of Edouard A. Brodeur, Jr., executed June 6, 2003, in support of the claims set forth in the above-identified continuing application.

The Final Rejection of January 14, 2003 stated that Claims 17-20 were indefinite on grounds that the independent Claim 17 requires a carpet roll and that it is unclear how a roll is void of a curl. Claim 17 has been amended to remove the term "roll" from the preamble and therefore the alleged indefiniteness is believed cured.

In the rejection of Claims 17, 18 and 20 based on an anticipation by or obviousness over Zegler, U.S. Patent No. 5,567,497, the Examiner stated that his position is that the carpet of Zegler is identical to or only slightly different from the claimed carpet. The Brodeur Declaration clearly establishes that the final product as claimed is quite different from the final product of the Zegler patent. An example of the differences is exemplified in the Brodeur Declaration with respect to the installation of a Zegler manufactured carpet at an IBM facility in 1989. A difference, *inter alia*, between the carpet of Zegler and the presently claimed carpet is that one curls (Zegler) and one does not curl. That this difference may be brought about by the method of construction does not in any way diminish the fact that the resulting products are indeed different, as the expert opinion of Mr. Brodeur states. Referring to the bottom of page 3 of the Final Rejection, the Brodeur Declaration establishes that the claimed carpet, void of curling, is not the same as the carpet disclosed in Zegler.

On page 5, the Examiner notes that the earlier presented Brodeur Declaration is merely an opinion and does not present any factual or objective evidence to support

Brodeur's conclusion that the Zegler and carpets of the preset application are different. The accompanying Brodeur Declaration presents factual and objective evidence, which does support Mr. Brodeur's expert conclusion that the Zegler patent domes and curls. In short, the carpet of the Zegler reference domes and curls as indicated by the problems associate with the 1989 IBM installation, whereas the presently claimed carpet does not curl and cures those problems. The structure of the claimed carpet is thus different by virtue of the preformed, open-mesh fiber-reinforced foam layer which produces the carpet or carpet tile as in Claim 13, substantially void of curling or doming, as applicable.

Accordingly, applicants submit that the Evidentiary Declaration of Mr. Brodeur clearly overcomes the rejection based on Zegler and early notification of the allowance of this application is respectfully requested.

Respectfully submitted,

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